

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATHANIEL PHILLIPS,)	
)	
Plaintiff,)	Case No. 17 C 8882
)	
v.)	Honorable Ronald A. Guzman
)	
DOVENMUEHLE MORTGAGE, INC. and)	Magistrate Jeffrey T. Gilbert
NEIGHBORHOOD LENDING SERVICES, INC.,)	
)	
Defendants.)	

**DOVENMUEHLE MORTGAGE, INC.'S MOTION TO DISMISS COUNTS I, II, III AND
V OF PLAINTIFF'S COMPLAINT PURSUANT TO RULE 12(b)(6)**

Defendant Dovenmuehle Mortgage, Inc. ("DMI"), through its counsel Ice Miller LLP, moves to dismiss Counts I, II, III and V of Plaintiff's Complaint pursuant to Federal Rule 12(b)(6). DMI submitted an Answer and Affirmative Defenses as to Count IV. DMI is not a party to any contracts and is not in contractual privity with Plaintiff, and thus DMI cannot be held liable for breach of contract as alleged in Counts I and II. Plaintiff failed to and cannot allege actual damages stemming directly from any alleged RESPA violation, and he further failed to properly plead pattern and practice. Count III fails as a matter of law. Plaintiff also failed to sufficiently plead a claim under the Illinois Consumer Fraud Act, and thus Count V fails as well. For a further exposition of the grounds for this Motion, DMI refers the Court to its Memorandum of Law, which has been filed contemporaneously herewith.

DATED: February 2, 2018

Respectfully submitted,

DOVENMUEHLE MORTGAGE, INC.

BY: /s/ Isaac J. Colunga

Isaac J. Colunga
Kelsey N. Weyhing
ICE MILLER LLP
200 West Madison Street
Suite 3500
Chicago, IL 60606
(312) 726-7157
isaac.colunga@icemiller.com
kelsey.veyhing@icemiller.com

Counsel for Dovenmuehle Mortgage, Inc.

CERTIFICATE OF SERVICE

The undersigned, an attorney, states that on February 2, 2018, he caused the foregoing to be filed with the Clerk of the United States District Court for the Northern District of Illinois, and thus a copy of this pleading will be served on all counsel of record by the Clerk's ECF/CM system.

/s/ Isaac J. Colunga

C\1201509.1